

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

RICHARD F. WHITE, JR.,

Plaintiff,

v.

FEDERAL EXPRESS CORPORATION,

Defendant.

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C.A. NO.: 05-53 GMS

DEMAND FOR JURY TRIAL

ANSWER

1. The defendant is without knowledge or information sufficient to affirm or deny the truth of the averments contained in this paragraph of the Complaint, and so, pursuant Superior Court Civil Rule 8, they are denied.
2. Admitted.
3. The defendant is without knowledge or information sufficient to affirm or deny the truth of the averments contained in this paragraph of the Complaint, and so, pursuant to Superior Court Civil Rule 8, they are denied.
4. The first sentence is denied in its entirety. It is admitted that Mr. Salvo was acting as an agent, and within the course and scope of said agency, for Fed Ex Ground Packaging System.
5. Admitted that the vehicle that the plaintiff was operating on the date averred was traveling eastbound on Prospect Avenue near the driveway to 448 Prospect Avenue in Berlin Townsend, New Jersey. The balance of the averments contained in this paragraph of the Complaint, either express or implied, are denied.

6. It is admitted that the vehicle that Mr. Salvo was operating backed out of the driveway at 448 Prospect Avenue and came into contact with the plaintiff's vehicle. The balance of the averments contained in this paragraph of the Complaint are denied.
7. The defendant incorporates its answers to Paragraphs 1 through 6 above as if fully restated herein.
8. Denied as to the full paragraph and each subparagraph thereunder as follows:
 - (A) Denied.
 - (B) Denied.
 - (C) Denied.
 - (D) Denied.
 - (E) Denied.
 - (F) Denied.
9. Denied.
10. Denied.
11. Denied.

FIRST AFFIRMATIVE DEFENSE

12. Venue in this Court is not proper.

SECOND AFFIRMATIVE DEFENSE

13. The plaintiff has named the wrong corporate defendant.

THIRD AFFIRMATIVE DEFENSE

14. Plaintiff's claims are barred by or shall be reduced by his own contributory negligence in that he:

- (A) operated his vehicle in a careless manner and without due regard for traffic conditions then existing;
- (B) failed to give full time and attention to the operation of his vehicle;
- (C) failed to maintain a proper lookout;
- (D) failed to observe the open and obvious;
- (E) failed to maintain proper control over the operation of his vehicle;
- (F) failed to take evasive action when available for him to do so;
- (G) operated his vehicle at a speed that was greater than reasonable and prudent under the conditions and without regard for the actual and potential hazards then existing;
- (H) had the last clear chance to avoid the accident and failed to avail himself of it;
- (I) was otherwise contributorily negligent as further discovery may demonstrate.

FOURTH AFFIRMATIVE DEFENSE

- 15. Some or all of the plaintiff's alleged injuries and losses either pre-existed or are unrelated to the subject accident.

FIFTH AFFIRMATIVE DEFENSE

- 16. Plaintiff's claim for pre-judgment interest fails to state a claim upon which relief may be granted.

TYBOUT, REDFEARN & PELL

/s/ Sherry R. Fallon

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DATED: March 8, 2005

CERTIFICATE OF MAILING

I, SHERRY R. FALLON, hereby certify that on this 14th day of March, 2005, I electronically filed the attached documents(s) with the Clerk of Court using CM/ECF which will send notification of such filing(s) to the following:

Michael I. Silverman, Esquire
Silverman, McDonald & Friedman
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Suite 22
Wilmington, DE 19805

TYBOUT, REDFEARN & PELL

/s/ Sherry R. Fallon
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DATED: March 14, 2005